**Arizona Curbs on Ethnic-Studies Classes Largely Upheld**

By Mark Walsh on March 12, 2013 (Education Week)

A federal judge has largely upheld a controversial Arizona law that bars courses that promote resentment against a race or class of people or advocate ethnic solidarity.

The March 8 decision comes in a lengthy battle between state officials and the Tucson Unified School District over the district's Mexican-American studies program. The 60,000-student district shut down the program in 2011 rather than risk the loss of some $15 million in state aid.

The director of the MAS program and its teachers, along with two Tucson students, sued state officials to challenge the state law as violating their federal constitutional rights of free speech, equal protection, and due process.

Judge A. Wallace Tashima, a member of the U.S. Court of Appeals for the 9th Circuit, in San Francisco, heard the case by special designation as a district court judge in Arizona.

The judge said in his ruling in *Acosta* v. *Huppenthal* that he was concerned that state officials may be misunderstanding "the purpose and value of ethnic studies courses" and may have shown an "insensitivity to the challenges faced by minority communities in the United States," but that the courts owe "considerable deference" to the state's "authority to regulate public school education."

Judge Tashima struck down one provision of the Arizona law barring courses "designed primarily for pupils of a particular ethnic group." He said it overlapped parts of the law that were being upheld and would threaten "to chill the teaching of legitimate and objective ethnic studies courses." The judge struck down the provision as an infringement on students' right under the First Amendment to receive information.

But the judge upheld the rest of the law, including provisions that bar courses promoting the overthrow of the U.S. government, promote racial or class resentment, and those that "advocate ethnic solidarity instead of the treatment of pupils as individuals."

The judge said the first two of those address only the design of courses and would not limit classroom discussions that veered into the topics of racial resentment or the overthrow of tyranny. Meanwhile, he said the restriction on teaching ethnic solidarity over treating students as individuals was sufficiently related to legitimate pedagogical goals.

Judge Tashima also held that the Arizona law was not passed with a discriminatory purpose, although he said there were some "red flags" that caused concern. These included the fact that in 2010, then-state Superintendent of Public Instruction Tom Horne seemed determined to "do away with" Tucson's Mexican American Studies program. But Horne's successor, John Huppenthal, issued his own findings that the Tucson program violated the law, the judge noted.

"Although some aspects of the record may be viewed to spark suspicion that the Latino population has been improperly targeted, on the whole, the evidence indicates that defendants targeted the MAS program, not Latino students, teachers, or community members who supported or participated in the program," the judge said.

Horne, now Arizona's attorney general, issued a statement praising the decision. "This is a victory for ensuring that public education is not held captive to radical, political elements and that students treat each other as individuals—not on the basis of the race they were born into," he stated.

It's not clear what this ruling (which may be appealed by the plaintiffs) might mean for Tucson's recently-approved plan to bring the Mexican-American studies courses back to its secondary schools as part of its larger agreement to bring an end to the decades-long desegregation effort in the Arizona city. Just last month, a federal judge overseeing the school district's desegregation case gave the green light to a new Unitary Status plan that includes providing "culturally relevant" courses that focus on the history, experience, and culture of blacks and Latinos.

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